

Message Text

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TO USMISSION EC BRUSSELS

AMEMBASSY LONDON

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AMEMBASSY DUBLIN

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USMISSION GENEVA

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AMCONSUL ROTTERDAM

AMEMBASSY OSLO

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

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TAGS: ETRN, ECE, US, XT

SUBJECT: PROPOSED EC INLAND WATERWAY TONNAGE CAPACITY
REGULATIONS - US LASH/SEABEE OPERATIONS

GENEVA FOR WALDMANN AND WEBB

SUMMARY: DEPARTMENT UNDERSTANDS THAT A NUMBER OF EC STATES ARE CONSIDERING A DRAFT EC DIRECTIVE ON INLAND WATERWAY TONNAGE CAPACITY REGULATIONS WHICH COULD INCLUDE A TAX ON ALL BARGES, INCLUDING AMERICAN LASH AND SEABEE BARGES, AND SEAGOING VESSELS MOVING ON EC INLAND WATERWAYS. THE REVENUE SUPPOSEDLY WOULD COMPENSATE SELECTED EUROPEAN INLAND WATERWAY OPERATORS WHOSE SELF-PROPELLED VESSELS HAVE BEEN IDLED OR WHO WILL BE COMPELLED TO LAY UP OBSOLETE AND EXCESS BARGES BECAUSE OF OVER-TONNAGED CONDITIONS. THERE IS CONCERN IN THE US THAT THE IMPOSITION OF SUCH A TAX, APPLICABLE TO AMERICAN SHIP-BORNE BARGE OPERATIONS IN EC INLAND WATERWAYS AND INTENDED TO FUND A CONVENTIONAL BARGE REDUNDANCY PROGRAM, WOULD DISCRIMINATE AGAINST LASH/SEABEE TYPE OPERATIONS IN FAVOR OF COMPETING RAIL AND HIGHWAY INTERMODAL OPERATIONS AND BE HARMFUL TO US COMMERCIAL INTERESTS. THE IMPOSITION OF SUCH A TAX, MOREOVER, COULD CONCEIVABLY RESULT IN THE US IMPOSING COUNTER MEASURES PURSUANT TO US SHIPPING LEGISLATION.

1. THE OVER-TONNAGED BARGE SITUATION IN CERTAIN EC WATERWAYS HAS RESULTED FROM INCREASED COMPETITION FROM OTHER EUROPEAN TRANSPORT MODES (I.E. TRUCK AND RAIL) WHICH UTILIZE ADVANCED, UNITIZED CARGO MOVEMENT TECHNIQUES AS WELL AS FROM MORE EFFICIENT PUSH BARGE OPERATIONS. THUS, THE OVER-TONNAGED PROBLEM DOES NOT APPEAR TO RESULT FROM THE INTRODUCTION OF AMERICAN SHIP-BORNE BARGE OPERATIONS INTO WESTERN EUROPEAN INLAND WATERWAYS. RATHER, THE LATTER IS AN INNOVATIVE, INTERNATIONAL TRANSPORT DEVELOPMENT COMPETING WITH LAND MODES WITH RESPECT TO THE INTERMODAL MOVEMENT OF US FOREIGN COMMERCE BETWEEN THE US AND EUROPEAN SEAPORTS AND INLAND DESTINATIONS. LASH/SEABEE BARGE OPERATIONS, IN FACT, OFFER EC TOWING COMPANIES (PUSH BARGE OPERATORS) A NEW SOURCE OF REVENUE, WHICH WAS NOT HERETOFORE AVAILABLE AND WHICH PROMISES GROWTH POTENTIAL. MOREOVER, IN THE ABSENCE OF THIS NEW TYPE OF SERVICE, UNCLASSIFIED

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ICE, US FOREIGN COMMERCE MOVEMENTS BETWEEN EUROPEAN SEAPORTS AND INLAND POINTS COULD BE EXPECTED TO MOVE IN LARGE PART BY RAIL AND ROAD INSTEAD OF BY EUROPEAN WATERWAYS, EVEN FURTHER REDUCING WATER-BORNE TRANSPORT ACTIVITY.

2. THE US RECOGNIZES THAT THE AMERICAN-INSPIRED, SHIP-BORNE BARGE CONCEPT IS NOVEL AND THAT ITS INTRODUCTION INTO EUROPEAN INLAND WATERWAYS POSES A NUMBER OF ADMINISTRATIVE PROBLEMS WHICH ARE BEING CONSIDERED WITHIN THE ECE INLAND TRANSPORT COMMITTEE, AND MORE PARTICULARLY WERE STUDIED BY THE AD HOC WORKING GROUP ON PROBLEMS RELATING TO TRANSPORT BY SHIP-BORNE BARGE. THE LATTER

SPECIAL GROUP CONCLUDED ITS WORK LAST DECEMBER. A REPORT IS TO BE SUBMITTED TO THE ECE INLAND WATER TRANSPORT WORKING PARTY WHEREIN MATTERS RELATING TO SHIP-BORNE BARGES WILL CONTINUE TO BE CONSIDERED. WE ARE AWARE ALSO THAT SOME EUROPEAN NATIONS ARE CONCERNED ABOUT THE POSSIBILITIES OF SHIP-BORNE BARGES HAULING CARGO BETWEEN EUROPEAN COUNTRIES UNDER THE FREEDOM OF NAVIGATION ARRANGEMENTS SET FORTH BY THE CONVENTION OF MANNHEIM OF 1833. CONSIDERING THAT US SHIP-BARGE OPERATIONS ARE GEARED SPECIFICALLY TO FOREIGN COMMERCE MOVEMENTS BETWEEN THE US AND EUROPE, IT IS SOMEWHAT DIFFICULT TO VISUALIZE THE USE OF THESE SPECIALLY-DESIGNED, EXPENSIVE (50,000 DOLLARS EACH) BARGES FOR POINT TO POINT INTRA-REGIONAL MOVEMENTS WHEN ALTERNATIVE MEANS, I.E. ORDINARY PUSH BARGES, ARE READILY AVAILABLE. MOREOVER, USING SHIP-BORNE BARGES IN THIS MANNER WOULD DETRACT FROM THE PRIMARY MISSION AND EFFICIENCY OF THE MOTHER VESSEL.

3. WITHIN THE ECE AD HOC WORKING GROUP, THE USG HAS ADVOCATED, AND OTHER GOVERNMENTS, PARTICULARLY THOSE THAT HAVE OR PLAN LASH/SEABEE TYPE OPERATIONS (DANISH-OWNED BACAT OR BARGE-ABOARD-CATAMARAN SERVICE WITH

MOTHER VESSELS CAPABLE OF CARRYING 3 LASH BARGES OF 370 TONS EACH AND 10 BACAT BARGES OF 40 TONS EACH WILL SHORTLY BE INAUGURATED BETWEEN HUMBER/TEES AND ROTTERDAM.), HAVE AGREED THAT EVERY EFFORT SHOULD BE EXPENDED TO FACILITATE THE DEVELOPMENT OF SHIP-BORNE TRANSPORT UNCLASSIFIED

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FOR TRANS-OCEAN CARRIAGE. FURTHERMORE, AT THE SECOND SESSION OF THE AD HOC WORKING GROUP HELD AT GENEVA, DECEMBER 17-19,1973, THERE WAS GENERAL CONSENSUS THAT THE RESOLUTION OF THE OVER-TONNAGED BARGE PROBLEM WITHIN THE EC SHOULD BE ACHIEVED WITHOUT IMPEDING OR OBSTRUCTING THE DEVELOPMENT OF SHIP-BORNE BARGE MOVEMENTS OPERATING IN FOREIGN COMMERCE. AT THE SAME TIME, IT WAS RECOGNIZED THAT ANY ACTION WITH REGARD TO THE OVER-TONNAGED BARGE SITUATION, INCLUDING THE IMMOBILIZATION OF VESSELS AND CONTRIBUTIONS TO COMPENSATE INDIVIDUALS OR COMPANIES AFFECTED, IS A MATTER TO BE RESOLVED IN FORA OTHER THEN THE ECE, I.E. THE EC AND POSSIBLY THE CENTRAL COMMISSION FOR THE NAVIGATION OF THE RHINE (CCNR).

4. WITH RESPECT TO THE CONTEMPLATED EC INLAND WATERWAY TONNAGE/CAPACITY REGULATIONS, OUR MOST RECENT REPORTS INDICATE THAT: 1) SHIP-BORNE BARGE OPERATORS/OWNERS WILL BE LIABLE TO PAY INTO THE REDUNDANCY FUND ON A PARITY BASIS WITH CONVENTIONAL PUSH BARGES OF THE EUROPA I AND II CLASS WHEN MOVING OVER EC INLAND WATERWAYS; 2) NO REDUNDANCY CHARGES WILL BE PLACED ON LAND

CARRIERS; 3) COASTAL OR HIGH SEAS SHIPPING CONDUCTING INTERNATIONAL COMMERCE ON EC WATERWAYS WILL NOT BE LIABLE FOR REDUNDANCY FUND PAYMENTS. WE UNDERSTAND ALSO THAT THERE HAS BEEN CONSIDERABLE DISCUSSION BY MARITIME CARRIERS AS TO WHETHER THIS APPROACH IS REALISTIC AND FAIR CONSIDERING THE DIFFERENCE BETWEEN THE SHIP-BORNE BARGE SYSTEM AND OPERATION AND ORDINARY PUSH BARGES OPERATING ON EUROPEAN INLAND WATERWAYS AND THE FACTORS THAT HAVE CONTRIBUTED TO THE OBSOLESCENCE OF CERTAIN TYPES OF CONVENTIONAL BARGES. IT APPEARS, HOWEVER, THAT LITTLE ATTENTION HAS BEEN GIVEN TO THE QUESTION OF INTERNATIONAL REPERCUSSIONS THAT MIGHT ARISE AS A RESULT OF THE APPLICATION OF EUROPEAN INLAND WATERWAY ORIENTED CHARGES TO WHAT IS BASICALLY AN OCEAN-TRANSPORT SYSTEM OR TO THE EQUITY OF A REDUNDANCY PAYMENT FORMULA WHICH WOULD ACCORD DIFFERENT TREATMENT TO SELF-PROPELLED COASTAL AND OCEAN SHIPPING AND NON-SELF-PROPELLED LASH/SEABEE SHIPPING IN INTERNATIONAL SHIPPING.

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5. APPLICATION OF THE REDUNDANCY TAX TO AMERICAN LASH/ SEABEE BARGES WOULD DISCRIMINATE AGAINST THIS NEW FORM

OF INTERNATIONAL WATER TRANSPORTATION TO PAY FOR THE PHASE-OUT OF AN INEFFICIENT, INTRA-REGIONAL, INLAND WATERWAY TRANSPORTATION SYSTEM WHOSE OBSOLESCENCE RESULTS NOT FROM SHIP-BORNE BARGE COMPETITION, BUT FROM CARGO DIVERSIONS TO OTHER MORE EFFICIENT AND INNOVATIVE TRANSPORT MODES, I.E. CONTAINER MOVEMENTS BY TRUCK AND RAIL, WHICH IRONICALLY WOULD NOT CONTRIBUTE TO THE PROPOSED REDUNDANCY FUND, AND TO INTRA-REGIONAL, INLAND WATERWAY, PUSH BARGE OPERATIONS. CONSEQUENTLY, NOT ONLY WOULD SUCH A TAX BE DISCRIMINATORY, BUT IT WOULD ALSO UNFAIRLY DISADVANTAGE LASH/SEABEE OPERATORS. THE PROPOSED TAX, MOREOVER, IN NO WAY REFLECTS ANY GENUINE "USER SERVICES" CONSIDERATIONS (E.G. FEES TO COVER THE COST OF MAINTAINING AND OPERATING INLAND WATERWAYS AND RELATED INSTALLATIONS). FURTHERMORE, CONSIDERING THAT SHIP-BORNE BARGE MOTHER VESSELS ALREADY PAY HIGHER PORT CHARGES PER TON OF CARGO CARRIED THAN OTHER SEAGOING VESSELS (THE CURRENT FORMULA USED TO CALCULATE GROSS TONNAGE ON WHICH MOST PORT CHARGES ARE BASED RESULTS IN HIGHER ASSESSMENTS ON LASH/SEABEE MOTHER VESSELS THAN ON CONVENTIONAL BREAK BULK VESSELS OF SIMILAR DEADWEIGHT TONS AND WHERE EQUIVALENT AMOUNTS OF CARGO ARE INVOLVED BECAUSE OF THE PARTICULAR CONFIGURATION OF THE LASH/SEABEE VESSEL) AND THAT SHIP-BORNE BARGES ALSO PAY USER FEES ON EC INLAND WATERWAYS, THE PLACING OF AN ADDITIONAL AND QUESTIONABLE MONETARY BURDEN ON THIS NEW FORM OF MODAL TRANSPORT SIMPLY BECAUSE IT HAPPENS TO HAVE THE SAME FLOATING PRINCIPLE COMMON TO INLAND WATERWAY BARGES USED IN INTRA-

REGIONAL TRADE WOULD BE AN UNJUSTIFIABLE ADDITIONAL BURDEN ON THE OPERATIONS CONCERNED. A SECONDARY RESULT OF THE PROPOSED CHARGE, IF IT IS APPLIED TO SHIP-BORNE BARGE OPERATIONS, WOULD BE THE SETTING OF AN UNFORTUNATE PRECEDENT FOR INTERNATIONAL SHIPPING WHICH COULD BE EMULATED BY OTHER COUNTRIES FOR ANY VARIETY OF INTERNAL PURPOSES.

6. ACTION REQUESTED: USEC BRUSSELS, DRAWING ON THE FOREGOING DISCUSSION AND THE FOLLOWING COMMENTARY, IS UNCLASSIFIED

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REQUESTED TO BRING INFORMALLY TO THE ATTENTION OF THE APPROPRIATE EC COMMISSION AUTHORITIES THE CONCERN OF THE US WITH RESPECT TO THE APPLICATION OF THE PROJECTED BARGE REDUNDANCY SCHEME TO SHIP-BORNE BARGE OPERATIONS INVOLVED IN FOREIGN COMMERCE BETWEEN EUROPE AND THE US. IT IS MOST REASONABLE FROM THE STANDPOINT OF US AND EC LEGITIMATE COMMERCIAL AND MARITIME INTERESTS THAT A CLEAR DISTINCTION BE MADE BETWEEN THE INTRA-REGIONAL, CONVENTIONAL PUSH BARGE WHICH IS CONFINED SOLELY TO EUROPEAN INLAND WATERWAYS AND PORT AREAS AND THE SPECIALLY-DESIGNED, SHIP-BORNE BARGE WHICH IS AN INTEGRAL

ELEMENT IN AN INNOVATIVE, INTERNATIONAL OCEAN TRANSPORT SYSTEM. ANY REDUNDANCY PLAN THAT MAY BE IMPLEMENTED BY THE EC SHOULD SPECIFICALLY EXEMPT SHIP-BORNE OPERATIONS INVOLVING INTER-CONTINENTAL CARGO MOVEMENTS. USEC BRUSSELS SHOULD ALSO POINT OUT THAT TO INCLUDE AMERICAN SHIP-BORNE BARGE OPERATIONS IN ANY REDUNDANCY PROGRAM COULD CONCEIVABLY CREATE PROBLEMS WITH RESPECT TO US SHIPPING LEGISLATION. SECTION 19(B) OF THE MERCHANT MARINE ACT, 1920 AUTHORIZES THE FEDERAL MARITIME COMMISSION "TO MAKE RULES AND REGULATIONS AFFECTING SHIPPING IN THE FOREIGN TRADE NOT IN CONFLICT WITH LAW AND ORDER TO ADJUST OR MEET GENERAL OR SPECIAL CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE, WHETHER IN ANY PARTICULAR TRADE OR UPON ANY PARTICULAR ROUTE OR IN COMMERCE GENERALLY, AND WHICH ARISE OUT OF OR RESULT FROM FOREIGN LAWS, RULES, OR REGULATIONS OR FROM COMPETITIVE METHODS OR PRACTICES EMPLOYED BY OWNERS, OPERATORS, AGENTS, OR MASTERS OF VESSELS OF A FOREIGN COUNTRY." IN A SITUATION WHERE US SHIPPING INTERESTS COULD ARGUE THAT THEY WERE BEING DISCRIMINATED AGAINST AND UNJUSTLY DISADVANTAGED, THE FMC COULD BE ASKED TO CONSIDER COUNTER MEASURES AGAINST THE SHIPPING OF THE DISCRIMINATING COUNTRY OR COUNTRIES. IN THIS REGARD, USEC BRUSSELS SHOULD EMPHASIZE THAT THE US DOES NOT PLACE ANY UNREASONABLE OR DISCRIMINATORY CHARGES ON FOREIGN-REGISTERED, SPECIALTY BARGES (I.E. SHIP-BORNE) OPERATING IN FOREIGN TRADE ON OUR INLAND WATERWAYS. THE US, IN FACT, HAS ACTED TO THE CONTRARY WITH THE ENACTMENT OF

PL 92-163 AMENDING SECTION 27 OF THE MERCHANT MARINE ACT,
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1920, TO FACILITATE THE CARRIAGE OF MERCHANDISE MOVING
IN OUR FOREIGN TRADE OVER US INLAND WATERWAYS BY NON-
SELF-PROPELLED SPECIALTY BARGES OF FOREIGN REGISTRY ON
THE BASIS OF RECIPROCITY. TO DATE, ONLY THE FRG
HAS AVAILED ITSELF TO THE PRIVILEGES OF PL 92-163 BY
INDICATING IT EXTENDS RECIPROCAL TREATMENT TO US SHIP-
PING WITHIN ITS JURISDICTION. THE GOVERNMENT OF THE
NETHERLANDS IS CONSIDERING SIMILAR ACTION. USEC BRUSSELS
MAY CONCLUDE THAT THE USG IS HOPEFUL ITS VIEWS ON THIS
PROBLEM WILL BE GIVEN FULL CONSIDERATION WITHIN THE EC
AND THAT ACTION PREJUDICIAL TO US INTERESTS WILL BE
AVOIDED.

8. OTHER ACTION ADDRESSEES ARE REQUESTED TO DISCUSS THIS
MATTER INFORMALLY WITH THE APPROPRIATE NATIONAL AUTHORI-
TIES.

9. POSTS SHOULD ALSO REPORT RESULTS OF THEIR EFFORTS AND
PROVIDE THE DEPARTMENT WITH ANY INFORMATION RELEVANT TO
PRESENT EC THOUGHTS ON PROPOSED BARGE REDUNDANCY SCHEME. KISSINGER

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LONDON
PARIS
BRUSSELS
THE HAGUE
COPENHAGEN
ROME

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